

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

KONIECZNA et al.

Serial No. 10/564,148

Filed: November 9, 2006

Confirmation No. 6122

Atty. Ref.: 37-86

T.C. / Art Unit: 1618

Examiner: J.M. Vu

FOR: PHARMACEUTICAL FORMULATION COMPRISING LEVOTHYROXINE

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**REFUND REQUEST**

May 25, 2011

**Mail Stop 16 - Refund**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

A refund is requested of the fees for the Notice of Appeal and the Appeal Brief (i.e., \$540 paid October 12, 2010 and \$540 paid December 13, 2010) because the Examiner's late allowance of this application obviated the need for appeal. The Examiner improperly rejected the claims as obvious in the final Official Action and maintained the Section 103 rejection in the Advisory Actions. Therefore, the PTO erred in requiring Applicants to appeal by filing the Notice and the Brief (along with required fees). No decision was rendered by the Board. Therefore, the fees paid by Applicant were an unnecessary expense when the appeal was withdrawn by allowance of this application.

Accordingly, it is requested that the fees totaling \$1080 be refunded by crediting Deposit Account No. 14-1140 under Order No. 37-86.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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